

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

CMG WORLDWIDE, INC., and )  
MARILYN MONROE, LLC, )  
Plaintiffs, )  
v. ) CASE NO. 1:05-cv-0423-DFH-WTL  
BRADFORD LICENSING ASSOCIATES, )  
THE SHAW FAMILY ARCHIVES, LTD., )  
and JAMES E. DOUGHERTY, )  
Defendants. )

**AFFIDAVIT OF COUNSEL**

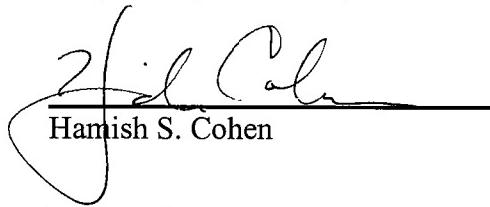
Comes now Hamish S. Cohen of the law firm of Bingham McHale LLP and, who, after being duly sworn upon this oath states as follows:

1. I am over the age of eighteen (18), and I have personal knowledge of and am competent to testify to the facts set forth herein.
2. On May 27, 2005, I visited Plaintiff CMG Worldwide, Inc.'s Internet site located at <http://www.cmgww.com/> and printed copies of relevant pages therefrom.
3. The pages attached as Exhibit A are true and accurate copies of CMG's internet materials obtained on the Internet as of May 27, 2005.

**FURTHER AFFIANT SAYETH NOT**

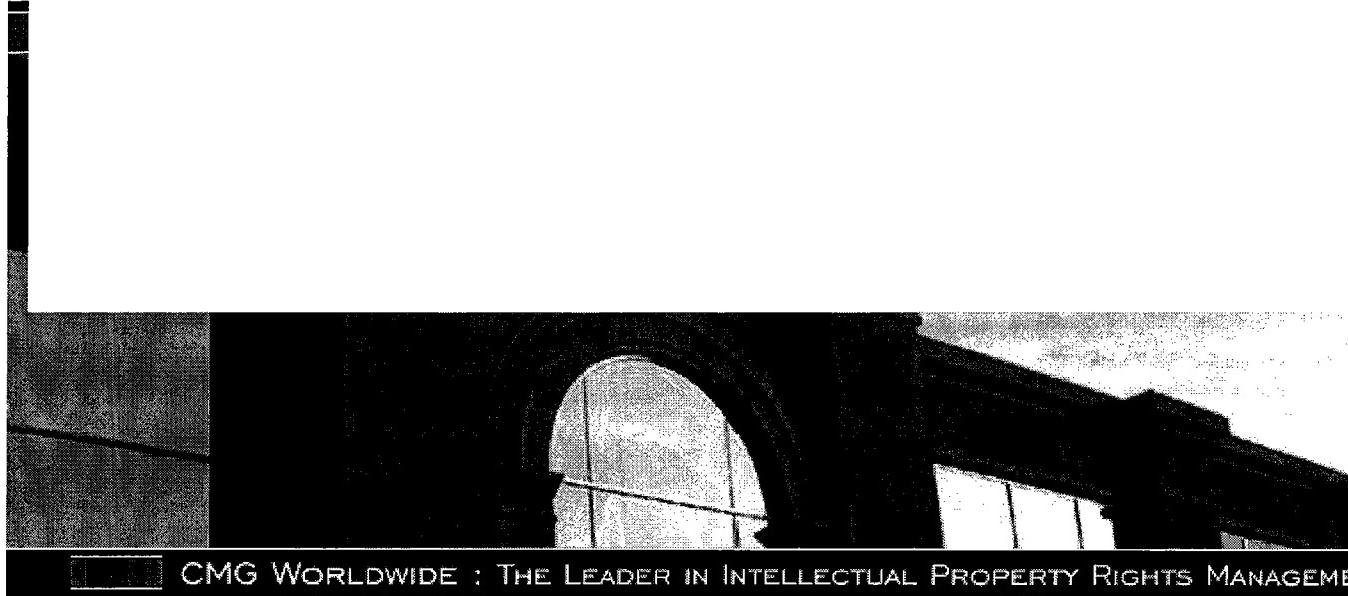
I affirm under the penalties of perjury that the foregoing representations are true.

Respectfully submitted,

  
Hamish S. Cohen

961123.1

**EXHIBIT**



CMG WORLDWIDE : THE LEADER IN INTELLECTUAL PROPERTY RIGHTS MANAGEMENT

## Client News



**CMG Worldwide to Participate in James Dean Fest Global Press Conference**

- ▶ ▶ With One Swing (of the Gavel), Ruth's Bat Hits \$1.26 Million
- ▶ ▶ Dodger Owner Buys Reese's Ring to Build Bridge to Brooklyn Era
- ▶ ▶ A James Dean Porsche

: Client list :

## Corporate News

**Roesler will be the keynote speaker at INTA**

Mark Roesler, Chairman and CEO of CMG Worldwide, will be the keynote speaker on Sunday, May 15th during a special welcoming presentation at the San Diego Convention Center.▶ ▶

## Multimedia



**DAILY WEB RADIO** ▶ ▶  
Mon-Fri at 5:00 EST  
**WEEKLY WEBCAST** ▶ ▶  
Friday at 12:00 EST

## Events

### The Race Party

Rev your engine, stomp on the gas and storm through the checkered flag! The Race Party! This annual, high-energy charity event will get your pulse racing and your motor running. Click here for more info.

### James Dean Fest



Fifty years after Dean's untimely death, James Dean Fest is a celebration of his legend.

**French :: German :: Italian :: Portuguese :: Spanish**

© CMG Worldwide

**EXHIBIT**

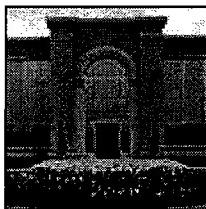
3A

: Home :



"THE ONLY THING YOU OWE THE PUBLIC IS A GOOD PERFORMANCE."

## Overview



Based in Indianapolis, Indiana with offices in Hollywood, California and Rio de Janeiro, CMG Worldwide secured its position during the 1970s as the premier company for representing the families and estates of deceased celebrities. Today, CMG Worldwide represents over 400 diverse personalities and corporate clients in the sports, entertainment, and music fields.

CMG Worldwide clients include sports legends such as Babe Ruth, Vince Lombardi, Jackie Robinson, Florence Griffith Joyner, Joe Louis, Lou Gehrig, Jesse Owens, and Jim Thorpe, with the rest of the sports roster running the spectrum of retired sports greats like Jim Palmer, Carl Erskine and Whitey Ford to some of today's current professional athletes including Bill Elliott, Wally Szczerbiak, Mike Piazza and Albert Pujols just to name a few.

Entertainment clients include the families of legends such as Marilyn Monroe, James Dean, Humphrey Bogart, Ingrid Bergman, Bette Davis, Sophia Loren, Rock Hudson, Bettie Page and Lana Turner. In addition, CMG represents many internationally acclaimed musicians including Duke Ellington, Chuck Berry, Billie Holiday, Hank Williams, Sr., Don McLean, and Buddy Holly, and prestigious corporate accounts like I Love New York. Historical clients include the late civil rights leader Malcolm X, Amelia Earhart, Lee Strasberg, Mark Twain, and legendary architect Frank Lloyd Wright.



As the business and marketing agent for these clients, CMG puts together over 2,000 different business deals each year throughout the world.

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"WITHOUT ELVIS, NONE OF US WOULD HAVE MADE IT."

## History

CMG Worldwide chairman and CEO Mark Roesler has successfully positioned his 20-year-old marketing and management company as the dominant force in the evolving intellectual property arena. "Before we started working in this area, deceased celebrities or their estates had no rights to their name or images," Roesler says. CMG Worldwide is the exclusive business agent for over 200 of the world's most sought after and recognizable celebrities, including: entertainment giants Marilyn Monroe, James Dean, Humphrey Bogart and Sophia Loren; sports legends Babe Ruth, Jackie Robinson and Vince Lombardi; musical entities Chuck Berry and Buddy Holly; and historical figures Diana, Princess of Wales and Malcolm X.

### Early Years



In 1981, Roesler's talents were secured to protect Norman Rockwell's artwork when he signed on with Curtis Publishing, long time supplier of *The Saturday Evening Post*, and licensing manager of the painter's artwork after his death in 1978. Through his attentive efforts to protect the artwork, Roesler discovered that families of famous deceased personalities were in need of the same legal defense to safeguard their loved ones' names and likenesses. As Roesler diligently created the ground work for a company that could take on such a momentous- and unheard of- task, he was selected as the business agent for the Elvis Presley estate.

Needless to say, Roesler's legal foresight and personal intuition were dead on- no pun intended. Today, he is internationally recognized as the world's foremost authority on intellectual property rights involving celebrities, credited with helping to establish guidelines that delegate the control of a celebrity's image or likeness. Still as industrious as ever, Roesler continues to make history with legal battles that have shaped the emerging area of intellectual property law. In 1988 he took the field against Major League Baseball and earned the right for retired players to be shown in their team uniforms while endorsing a product or service. Several years later, Roesler locked horns with entertainment conglomerate Warner Bros. when they claimed ownership of the lucrative merchandising and endorsement rights to James Dean because the star was under contract with them when he died. Roesler maintained Dean's family possessed those rights, and in 1992 the courts agreed. Countless stars and their estates have since used the landmark case to effectively protect and market their names and likenesses-benefited immeasurably

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from the pursuits of this relentless entrepreneur.

### Middle Years

Roesler's 1993 high profile legal battle with Malcolm X director Spike Lee established that Malcolm X's widow, Betty Shabazz, controlled the rights to the "X" used in association with her husband. Lee was ordered to pay Shabazz a licensing fee. In 1994, Roesler was the driving force behind the instatement of Indiana's Right of Publicity Statute, now regarded as the most progressive and celebrity friendly worldwide. The Statute protects the image and likeness of a famous personality for 100 years, and is the model for states looking to enact or amend Right of Publicity legislation, including California, Illinois, Washington and Ohio.



Roesler's savvy, groundbreaking reputation in the often-murky waters of intellectual property precedes him. He is frequently called on by celebrities from Bill Cosby, to Richard Nixon, to Muhammad Ali as an advisor and expert witness. At the 1997 O.J. Simpson civil trial, he received international acclaim as the authority whose testimony brought some closure to the families of Nicole Brown Simpson and Ronald Goldman. Roesler definitively established Simpson's future worth as \$25 million, and his creditability resulted in the jury's award of that exact amount. Although Simpson filed an appeal to reduce damages, the decision was upheld in January 2001, and Roesler's testimony once again deemed a fair and accurate assessment.

### Current Years



Roesler's burgeoning corporation, CMG Worldwide, is headquartered in Indianapolis, with additional offices in Los Angeles and Rio de Janeiro. "People used to ask, 'Why aren't you based in New York or Los Angeles?'" Roesler says. "But our market is international, and advances in technology have enabled us to efficiently market and protect our clients around the world."

The evolution of the Internet has also given Roesler and his team of lawyers a whole new world to conquer. They constantly fight, and consistently win, battles with cyber squatters who misappropriate the names and images of their clients on the Internet. CMG has retained numerous domain names for their clients, including MarilynMonroe.com and BabeRuth.com, and are at the forefront in the removal of pornography on Web sites for clients such as Sophia Loren.

"It gives me great pleasure to be a part of a company that represents, protects and markets the greatest legends in history," Roesler says. "The possibilities in this business are limitless, and we are continually seeking new ways to best serve our clients."

*For more on CMG Worldwide chairman and CEO Mark Roesler, please visit [MarkRoesler.com](http://www.markroesler.com).*